(47)

CF/Lodh.

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO 3586 /2003

PETITIONER : **MANAGING DIRECTOR**
Steel Authority of India Limited
Bhilai Steel Plant, Bhilai,
Distt. Durg (Chhattisgarh)

Vrs.

RESPONDENTS :

1) **G.RAJGOPALAN**
Quarter 11/B, Street.32,
Bhilai, Distt, Durg(CG)

2) **The President**
Industrial Court
Chhattisgarh, Distt, Raipur.

3) **The Presiding Officer**
Labour Court, District Durg.

P. R. No. 3306/03
Presented by Shri Vinod Deshmukh
dated 26/12/03

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE DIRECTION/ORDER ETC.

(234)

HIGH COURT OF CHHATTISGARH AT BILASPUR
Writ Petition No. 3586 of 2003

Petitioner : Managing Director
Steel Authority of India Limited

Versus

Respondents : G. Rajgopalan & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri P.S. Nair, Senior counsel with Shri P.S. Koshy, counsel for the Petitioner.

Shri G. Rajgopalan, Respondent No. 1 in person.

ORAL ORDER

(17th February, 2006)

1. The facts in nutshell are that the respondent No. 1 joined the petitioner's plant as Electrician on 19.1.1961 to attend repair of machineries and other electrical equipments. The respondent No. 1 was served a charge-sheet dated 10.5.1972 (Annexure P-1) for disobeying orders of the senior officers. In the departmental enquiry, the charges were proved. Pursuant to that penalty of reduction to lower post of Electrician Grade-II was imposed by order dated 13.6.1973 (Annexure P-2).

2. The respondent No. 1 has again served a charge-sheet dated 8.5.1975 (Annexure P-3), containing three charges, namely : firstly, guilty of committing acts of willful insubordination and disobedience of lawful and reasonable orders of his superiors in as much as the respondent No. 1 refused to sign on the W/off change paper on 5.4.1975 changing his W/off from Sunday to Tuesday and reported for duty on the W/off days on 22nd and 29th April 1975 against the orders of his shift Incharge, secondly, the respondent No. 1, while working as Electrician Grade-II was guilty of disorderly and indecent behavior subversive of discipline and thirdly, he was guilty of committing breach of law

applicable to the works which is an act of misconduct under S.O. No. 29 (xx). The departmental enquiry was held and all the charges were found proved against the respondent No. 1. Accordingly, punishment of termination by order dated 1.7.1976 (Annexure P-4) was imposed on the respondent No. 1.

3. The Labour Court by order dated 9.10.1980, in an application filed by the respondent No. 1, directed reinstatement with 50% of back wages. The Industrial Court by order dated 26.6.1982, in an appeal, modified the order and allowed the appeal to the extent of grant of full back wages.

4. The respondent No. 1 was issued a charge-sheet on 21.3.1987 on the following charges :-

> "1. Willful and habitual absence from duty without leave or without sufficient cause.
>
> 2. Willful insubordination or disobedience to any lawful and reasonable order of a superior".

The proper enquiry was held and pursuant to the enquiry, services of the respondent No. 1 was terminated with immediate effect by order dated 29.8.1987 (Annexure P-10).

5. The respondent No. 1 filed an application before the Labour Court under Section 31 (3) read with Section 61 of the M.P.I.R. Act. 1960, impugning the termination order dated 29.8.1987, seeking a direction that the respondent No. 1 be reinstated with full back wages and other consequential benefits. The respondent No. 1 further challenged the impugned termination order on the ground that the termination order was issued by the Superintendent, Ore Handling Plant, who was not the competent authority and junior to the General Manager, who was the competent authority. The Labour Court vide its order dated 31.3.2000 (Annexure P-16) allowed the application directing reinstatement of the respondent No. 1 without back wages

on the ground that the impugned order passed by the Superintendent, Ore Handling Plant as invalid as the officer was not the competent authority to pass the termination order. The competent officer was General Manager (presently the Managing Director).

6. Being aggrieved, the petitioner as well as the respondent No. 1, both filed appeal being Civil Appeal No. 115/M.P.I.R./A/II/2000 and Civil Appeal No. 110/M.P.I.R./A/II/2000 respectively before the Industrial Court. The Industrial Court by its common order passed in Civil Appeal No. 115/M.P.I.R./A/II/2000 filed by the petitioner, Civil Appeal No. 110/M.P.I.R./A/II/2000 filed by the respondent No. 1 held as under:-

> "However if the employer still sticks to his contention that the employee has attained age of super-annuation then the option is given to him to pay Rs. 400,000/- (Rupees Four Lacs) by way of back wages and Rs. 200,000/- (Rupees Two Lacs) by way of pensionary benefits to the employee. This option is given to the employer considering the fact that for the last about 30 years litigation is going on between the two, and the things seem to be irreconcilable, which is not a healthy system for industrial place. On payment of this lump sum amount of Rs. Six Lacs by employer to the employee, within 30 days from this order both of them will get rid of from each other and no one would have any claim against each other thereafter".

7. Learned counsel for the petitioner submits that the respondent No. 1 has suffered for a long period and the Industrial Court has given a quietus by passing the above-stated order. The calculation of payment of back wages to the tune of Rs. 400,000/- and pensionary benefits to Rs. 200,000/- are lump sum and just and proper.

8. Shri G. Rajgopalan/respondent No. 1, appearing in person contended that the respondent No. 1 has been retired on 31.5.1997 when the respondent No. 1 ought to have retired subsequently in the year 2007.

No foundation has been laid to prove the age of retirement either by the respondent No. 1 or by the petitioner before this Court as well as before the authorities below and this question was also not addressed by the authorities below. The date of birth of the respondent No. 1 was not determined by the authorities below.

9. In this writ petition under Article 226/227 of the Constitution of India, the age of the respondent No. 1 cannot be determined by permitting the authorities to adduce fresh evidence, which is not permissible in law.

10. Having heard learned counsel for the parties and having perused the papers appended to the pleadings, I am of the view that the Industrial Court has taken overall decision in view of the conduct of the petitioner i.e. not obeying the orders passed earlier and sufferance of the respondent No. 1/employee in just and equitable manner and as such it does not call for any interference at this stage in exercise of jurisdiction under Article 226/227 of the Constitution of India.

11. Accordingly the petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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